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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/905,510	07/13/2001	Dan Vassilovski	010275	3380
23696 7590 12/14/2007 QUALCOMM INCORPORATED 5775 MOREHOUSE DR. SAN DIEGO, CA 92121			EXAMINER DUONG, DUC T	
			ART UNIT 2619	PAPER NUMBER
			NOTIFICATION DATE 12/14/2007	DELIVERY MODE ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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nanm@qualcomm.com

## Office Action Summary

**Application No.**

09/905,510

**Applicant(s)**

VASSILOVSKI ET AL.

**Examiner**

Duc T. Duong

**Art Unit**

2619

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 26 September 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 6-8, 11, 15, 28, 33, 37, 58 and 59 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 28, 33, 58 and 59 is/are allowed.
- 6) ☒ Claim(s) 6-8, 11, 15 and 37 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments with respect to claims 15 and 37 have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Objections***

2. Claims 15 and 58 are objected to because of the following informalities: the word IP in lines 5 and 4 respectively is misspelled, wherein it should be SIP. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 6-8, 11, and 37 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 6-8 and 11 recite the limitation "the SIP message" in lines 5-6. There is insufficient antecedent basis for this limitation in the claim.

Claim 37 recites the limitation "telephone power" in line 7. There is insufficient antecedent basis for this limitation in the claim.

### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and

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the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 15 and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Maggenti et al (US Patent 6,477,150 B1) in view of Love et al (US Patent 6,058,107).

Regarding to claims 15 and 37, Maggenti discloses a method for facilitating communication between a wireless communication device 202 transmitting information using an over-the-air (OTA) protocol and a telephony infrastructure 218 using IP protocol to communicate information within the infrastructure, comprising adding data in at least one SIP message header representing at least one OTA network parameter, wherein the parameter is related to the OTA protocol but not to voice over IP (VOIP) protocol used within the infrastructure (col. 25 lines 40-42; noted the parameters are explicitly CDMA related and not VOIP related), wherein the parameter includes a station classmark (0x7BCF or 0xE289).

Maggenti fails to teach the classmark represents at least the wireless communication device power.

However, Love discloses a method for power control using OTA frames 800/810 that includes a classmark 801/811 to updates the mobile transmit power (fig. 8 col. 14 lines 50-63).

Thus, it would have been obvious to a person of ordinary skill in the art to employ a classmark that represents the wireless communication device power at taught by Love

into Maggenti's system for maintaining sufficient communication link quality and information throughput while using minimum power levels to maximize system capacity.

***Allowable Subject Matter***

7. Claims 28, 33, 58, and 59 are allowed.
8. Claims 6-8 and 11 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

***Conclusion***

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Duc T. Duong whose telephone number is 571-272-3122. The examiner can normally be reached on M-F (9:00 AM-6:00 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wing Chan can be reached on 571-272-7493. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

DD

  
12/10/07  
WING CHAN  
SUPERVISORY PATENT EXAMINER